

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

PEOPLES GAS LIGHT AND COKE COMPANY,

Case No. 06-0533

Plaintiff,

v.

AFD INDUSTRIES,

Defendant

ILLINOIS
COMMERCE COMMISSION
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DEFENDANT'S COMPLAINT TO BILLING ERRORS AND METER PROBLEMS

Complainant's Reply Brief

TO: Illinois Commerce Commission

Defendant, AFD Industries, clarifies and counters incorrect information in the Respondent's Initial Brief regarding Plaintiff's, Peoples Gas Light and Coke Company, billing errors and meter problems.

Plaintiff indicates in their brief on page two that the first drying room was completed on January 16, 2005. While that may be correct, this unit could not be "fired" until February 9, 2005 because the meter was not large enough. No gas was used for drying until after February 9, 2005.

On Respondents Initial Brief, page 3, a statement is made that Mr. Westveer could not state what portion of the bill was in dispute. It is clear that AFD believes the amount left unpaid is in dispute and is willing to review any new information that the Plaintiff provides that indicates otherwise. The Defendant knows that it is completely impossible to have used the gas that the Plaintiff suggests they have. The Plaintiff suggests the dispute is for \$127,846.21 on page 3. This indicates that they are not fully aware of the dispute. That amount is the current balance, there have been deposits claimed against the balance and the disputed amount is \$130,376.91.

On the Respondent's Initial Brief, bottom of page 3, the testimony that the Solo Cup's space was capped off was an evaluation long after Solo or the other occupying tenant moved out and would likely have capped any pipes after removing appliances.

On page 5, Mr. Long's testimony that the heaters were not in use is irrelevant due to that space was vacant during the time he was there. It was actually occupied during the time that this gas use would have occurred.

On page 6, the statement that 67,000 cubic feet of gas usage by AFD was not unusual would assume that dryers were being utilized. AFD does use that volume of gas on another Peoples Energy account that is not in dispute. AFD did not run any drying during this time. This fact is not disputed. The probable use of that gas was for heating this space in question. It is completely likely, based on Mr. Long's testimony that there are Radiant Heating appliances in this (Solo) space connected to the meter in question. After Mr. Long identified this issue, he did not inform AFD of the situation.

Respondent's Initial Brief, page 7 indicates that Mr. Westveer never put consumption calculations into the record. The AFD historical usage on the account that is not in dispute allows AFD to accurately assess what the usage should be. These estimates are not as accurate as actual readings. Unfortunately, we do not have actual readings for this disputed gas. The Plaintiff provided their full load theoretical usage calculations on their Exhibit #1. This supports Defendant's claim that until the end of 2005, there were large volumes of invoiced gas usage that could not be used by the drying rooms (implemented 2/9/05). On this analysis, almost consistently until the end of 2005, the metered volumes were greater than the theoretical maximum usage of such devices. This is only possible if another source was using gas. After the end of 2005, the metered volumes were less than the theoretical maximum usage. The only explanation to this usage is there was a volume of gas used in the identified space in question, or there were meter issues. The 160,000 sq. ft. space referred to earlier was occupied until some time in December, 2005, exactly when the usage calculations begin to resemble actual usages.

The Respondent's Initial Brief makes no analysis of Mr. Long's calculations because these clearly support the defendant's claim. Their statement on page 8 is incorrect because AFD could not have used the amount of gas registered by its gas meter during the time prior to February 9, 2005. These devices did not have the capacity to use the gas that the Plaintiff claims and their calculations demonstrate this.

Defendant asks for judgment in favor of Defendant for the disputed amount of \$130,376.91. Defendant further requests that the Commission requires Plaintiff to refund the deposits and other payments made by Defendant in the amount of \$3,541.45. The current open invoice shows a balance of \$126,835.46 (\$130,376.91-\$3,541.45).

Dated this 6 day of April, 2007.



ADF Industries
Bill Westveer


Certificate of Service

I certify that on April 5, 2006, I mailed the foregoing Complainant's Reply Brief, by causing a copy of the same to be served by US Mail, first class postage prepaid, on the parties listed below:

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William Westveer – AFD